

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

KAREN BACKUES KEIL,

Plaintiff,

v.

MHM SERVICES, INC.,

a Virginia Corporation

JOHN DUNN, and

EDWARD BEARDEN,

Defendants.

Case No. 5:18-cv-06074-BP

**DEFENDANT JOHN DUNN'S MOTION TO DISMISS COUNT VII OF PLAINTIFF'S  
COMPLAINT**

COMES NOW defendant, John Dunn, by and through counsel, and for his Motion to Dismiss Count VII of Plaintiff's Complaint, states as follows:

1. Plaintiff alleges in her Complaint improper sexual contact by this defendant.
2. In Count VII, plaintiff alleges negligence per se, and cites to Section 566.145 of the Missouri Revised Statutes, which prohibits all sexual contact with incarcerated individuals by any staff working with a correctional facility.
3. In the Complaint, plaintiff alleges sexual contact by this defendant exclusively in 2013.
4. Section 566.145 of the Missouri Revised Statutes became effective on January 1, 2017.
5. As such, plaintiff's attempt to assert a negligence per se claim is in violation of the Article I, Section 13 of the Missouri Constitution which bars ex post facto and retrospective laws, and must be dismissed.

WHEREFORE, defendant, John Dunn, for the reasons set forth in this Motion and the accompanying Memorandum of Law, requests this Court's Order dismissing Count VII of Plaintiff's Complaint and for such further relief as this Court deems just and appropriate.

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 12th day of June, 2018, the foregoing document is being electronically filed in this matter, which causes a true and correct copy to be served electronically upon all persons who have appeared herein, by electronic transmission, to:

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/s/ Kevin J. Adrian